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FILED

OCT 21 2015

SECRETARY, BOARD OF
OIL, GAS & MINING

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Attorneys for Permittee
Alton Coal Development, LLC

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

<p>UTAH CHAPTER OF THE SIERRA CLUB, et al,</p> <p>Petitioners,</p> <p>vs.</p> <p>UTAH DIVISION OF OIL, GAS & MINING,</p> <p>Respondent,</p> <p>ALTON COAL DEVELOPMENT, LLC and KANE COUNTY, UTAH,</p> <p>Respondent/Intervenors.</p>	<p>ALTON COAL DEVELOPMENT, LLC'S RESPONSE TO PROPOSED BOARD ORDER</p> <p>Docket No. 2009-019</p> <p>Cause No. C/025/005</p>
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Alton Coal Development, LLC ("Alton Coal" or "ACD"), by and through its attorneys of record, responds to the Utah Division of Oil, Gas & Mining's ("Division") request to withdraw its motion for leave to file a Sur-Reply.

ACD agrees with the Division's proposal to forgo filing a Sur-Reply to ACD's Reply memorandum dated September 29, 2015, however, ACD objects to the form of the proposed order. The Division proposes that the thrust of their motion remain as part of the administrative record, even though the motion is withdrawn. The Division has requested to withdraw the Motion to File a Sur-Reply, therefore the entire motion should be withdrawn from the record. The Board is without authority to both withdraw the motion and yet have the motion preserved in the administrative record. ACD requests the Board to enter an order allowing the Division to withdraw the motion and strike the motion from the record. A redline and clean version of the proposed form of order is attached.

RESPECTFULLY SUBMITTED this 21st day of October, 2015.



SNELL & WILMER, LLP

Denise A. Dragoo

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Stephen W. Smithson

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Bennett E. Bayer (*Pro Hac Vice*)

Attorneys for Alton Coal Development, LLC

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2015, the foregoing **ALTON COAL DEVELOPMENT, LLC'S RESPONSE TO PROPOSED BOARD ORDER** was served electronically upon the following:

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Division of Oil, Gas & Mining



BEFORE THE UTAH BOARD OF OIL, GAS AND
MINING

Utah Chapter of the Sierra Club et
al.,

Petitioners,

vs.

Utah Division of Oil, Gas and
Mining,

Respondent,

and

Alton Coal Development, LLC,
Respondent/Intervenor.

[Proposed]
Order for Withdrawal of
Division of Oil, Gas and
Mining's Motion for Leave to
file Sur-reply

to
Alton Coal's Reply to the
Division's Response to Alton
Coal's Petition for Attorney
Fees

Docket No. 2009-019
Cause No. C/025/005

The Utah Division of Oil, Gas and Mining has filed ~~its~~ a Motion for Leave to file a ~~Sur-reply~~ Reply to Alton's Reply to the Division's Response to Alton Coal Development's Opening Brief in Support of Fee Petition ~~in order to address Alton's claims of a lack of candor and failure to properly advised the Board in this matter.~~ Subsequently the Division has proposed to withdraw the motion ~~in order to facilitate a more efficient resolution of the issues directed to be briefed, and to avoid complicating the briefing with ancillary issues.~~

~~The Division however asserts that it strenuously objects to Alton's allegations that the Division breached its duties of candor toward the Board and its duties to advise the Board without bias, and has asked that its objections as set forth in the Motion for Leave to file a Sur-reply be part of the record in this matter.~~

NOW THEREFORE, the Board, having considered the requested withdrawal, acknowledging the need to both fairly and efficiently resolve this matter, and being fully apprised of the facts and issues does hereby Order as follows:

The Division's request to withdraw the Motion to file a Sur-reply may be withdrawn Reply is granted. The Motion shall be stricken from the record and no Sur-reply Reply shall be filed.

~~The Motion as filed will be acknowledged for the purpose of lodging the Division's objections to Alton's Reply and will be part of the record in this matter.~~

Entered this ____ day of October, 2015.

Ruland J. Gill Jr. Chair
Utah Board of Oil, Gas and Mining,

BEFORE THE UTAH BOARD OF OIL, GAS AND
MINING

Utah Chapter of the Sierra Club et
al.,

Petitioners,

vs.

Utah Division of Oil, Gas and
Mining,

Respondent,

and

Alton Coal Development, LLC,

Respondent/Intervenor.

[Proposed]
Order for Withdrawal of
Division of Oil, Gas and
Mining's Motion for Leave to
file Sur-reply

to
Alton Coal's Reply to the
Division's Response to Alton
Coal's Petition for Attorney
Fees

Docket No. 2009-019
Cause No. C/025/005

The Utah Division of Oil, Gas and Mining filed a Motion for Leave to file a Sur-Reply to Alton's Reply to the Division's Response to Alton Coal Development's Opening Brief in Support of Fee Petition. Subsequently the Division has proposed to withdraw the motion.

NOW THEREFORE, the Board, having considered the requested withdrawal, acknowledging the need to both fairly and efficiently resolve this matter, and being fully apprised of the facts and issues does hereby Order as follows:

The Division's request to withdraw the Motion to file a Sur-Reply is granted. The Motion shall be stricken from the record and no Sur-Reply shall be filed.

Entered this ____ day of October, 2015.

Ruland J. Gill Jr. Chair
Utah Board of Oil, Gas and Mining,